

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 14-910V

Filed: February 3, 2015

Unpublished

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PHILIP ALTIERI,

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Petitioner,

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Ruling on Entitlement; Concession;

Influenza or Flu Vaccine; SIRVA;

Shoulder Injury Related to Vaccine

SECRETARY OF HEALTH

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Administration; Special Processing Unit

AND HUMAN SERVICES,

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Respondent.

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*Paul Brazil, Esq., Muller Brazil LLP, Philadelphia, PA for petitioner.*

*Justine Walters, Esq., U.S. Department of Justice, Washington, DC for respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

**Vowell**, Chief Special Master:

On September 26, 2014, Philip Altieri filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> [the “Vaccine Act” or “Program”]. Petitioner alleges that he suffered right shoulder injuries which were caused by the influenza vaccine he received on December 2, 2013. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On February 3, 2015, respondent filed her Rule 4(c) report in which she concedes that petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1-2. Specifically, respondent “has concluded that a preponderance of the evidence establishes that petitioner’s injury is consistent with a shoulder injury related to vaccine administration (“SIRVA”), and that petitioner’s injury is not due to factors

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

unrelated to his December 2, 2013, flu vaccination.” *Id.* at 3. Respondent further agrees that petitioner’s injury lasted for more than six months. *Id.*

**In view of respondent’s concession and the evidence before me, I find that petitioner is entitled to compensation.**

**s/Denise K. Vowell**  
Denise K. Vowell  
Chief Special Master